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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,464	11/20/2001	Gunther Sejkora	366.150	8652
5514	7590	09/17/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			TON, ANABEL	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 09/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/988,464	SEJKORA ET AL.
	Examiner	Art Unit
	Anabel M Ton	2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 08 July 2004.
- 2a) This action is **FINAL**.                                   2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-15 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 8,12 and 13 is/are allowed.
- 6) Claim(s) 1-3,6,7 and 10 is/are rejected.
- 7) Claim(s) 4,5,9,11,14,15 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Jones (6,238,065).
3. Jones discloses at least one lamp (36); a reflector surrounding the lamp, a side of said reflector facing towards said lamp being reflecting, said reflector being formed with an emission opening for emission of light (fig 13), and an optical element arranged in or before the emission opening for deflecting light beams which enter into a light entry surface and exit from a light exit surface opposite to said light entry surface of the optical element (60) such that light beams exit said optical element at an exit angle which is smaller than a predetermined limit exit angle of about 70 degrees(40, Fig 13, angle appears to be less than 70 degrees), said optical element having a plate-like core of transparent material which is occupied on said light entry surface with tapered microprisms formed by furrows (70) , said microprisms having roots from which said

microprisms taper,(60, fig 12) said reflector being shaped and arranged with reference to said lamp such that only light beams reflected at said reflector and impinging on said light entry surface can exit said light exit Surface (fig 13).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2,3,6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones.

- Jones teaches the claimed invention except for the recitation of the reflector being diffusively reflecting and painted white or with highly reflective Teflon. With regards to the inner side of the reflector is painted white or is coated with highly reflecting Teflon, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use such reflective materials for a reflector since the aforementioned materials are well known in the art for their reflective and diffusive properties.
- The microprisms of said optical element are arranged in a matrix-like manner.
- The microprisms have an elongate structure

***Allowable Subject Matter***

- Claims 4,5,9,11,14 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The luminaire includes two elongated lamps arranged parallel to one another and laterally offset with respect to said emission opening.

1. Claims 8,12 and 13 are allowed.
2. The following is a statement of reasons for the indication of allowable subject matter: The prior art cited does not recite the following:

- A luminaire according to any of claims 1 to 3, further including a second optical element arranged to deflect light beams which enter into and exit from said second optical element, such that said light beams exit from said second optical element at an exit angle which is less than a predetermined limit exit angle, said second optical element being constructed in the same manner as the optical element; wherein said second optical element being formed with further microprisms which have an elongate structure, and said second optical element being arranged parallel to said optical element and the microprisms of said second optical element being directed transversely to the microprisms of said optical element.
- A luminaire comprising: an elongated lamp; an elongate reflector configured to surround said lamp, said reflector having an inner side the inner side facing

towards the lamp and being formed to be reflecting, said reflector being formed with an emission opening for emission of light-, a first optical element arranged to deflect light beams which enter into and exit from said first optical element to exit from said first optical element at an exit angle which is smaller than a predetermined exit angle of about 70°, said first optical element having a plate-like core of transparent material which is occupied on a light exit side thereof with microprisms and furrows, said microprisms having roots from which said microprisms taper, and said microprisms of said first optical element having an elongate structure; and a second optical element arranged to deflect light beams which enter and exit from said second optical element to exit from said second optical element at an exit angle which is smaller than a predetermined limit exit angle; said second optical element being of the same construction as said first optical element and being formed with microprisms, the microprisms of said second optical element likewise having an elongate structure, said second optical element being arranged parallel to said first optical elements, said microprisms of said second optical element extending transversely to microprisms of said first optical element, and said inner side of said reflector being formed to be mirror reflecting, and being arranged with reference to said lamp that is substance no light beams are emit substance only light beams reflected at said reflector can exit said emission opening through said first optical element.

***Response to Arguments***

3. Applicant's arguments filed 07/08/04 have been fully considered but they are not persuasive. Applicant argues that " the optical element has a plate like core of transparent material occupied on the light entry surface with tapered microprisms formed furrows, having roots from which the microprisms taper", "Jones , fails completely to disclose tapered micropsrims. Jones relates generally to a purportedly non-glaring, aesthetically pleasing lighting fixture a so called structure 60 that passes light". Examiner disagrees for the following reasons: Figures 12 and 13 of the Jones invention anticipated the aforementioned claims. Figures 12 and 13 clearly teach an optical element has a plate like core of transparent material occupied on the light entry surface with tapered microprisms formed by furrows, having roots from which the microprisms taper (60,70), although the specification discloses "70" as lensettes, it can clearly be seen that 70 in Figures 12 and 13 are prismatic in structure. With regards to the microprisms being tapered and formed by furrows, as can be seen in figures 12 and 13 at the base of prismatic structures 70 the base is tapered into the optical element 60, and the furrows forming these prismatic structures can be seen in between the peaks of each prismatic structure 70. Also as shown in figure 13 and elongate reflector (32) configured to surround the lamp(36), the reflector being formed with an emission opening of light (area around 58), the inner side of the reflector being formed to be mirror reflecting and being arranged with reference to the lamp such that only light beams reflected at the reflector and impinging on the light entry surface can exit the light exit surface.

***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

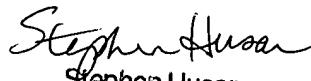
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M Ton whose telephone number is (571) 272-2382. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anabel M Ton  
Examiner  
Art Unit 2875

AMT

  
Stephen Husar  
Primary Examiner